

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Nakano Analyst: Kristina E. North Bill Number: AB 658

Related Bills: None Telephone: 845-6978 Amended Date: August 27, 2003

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** California Prostate Cancer Research Fund

## SUMMARY

This bill would establish the California Prostate Cancer Research Fund.

## SUMMARY OF AMENDMENTS

The August 27, 2003, amendments replaced the provisions relating to local government reorganization with language for the California Prostate Cancer Research Fund.

This is the department's first analysis of this bill.

## PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to create an additional source of funding for the research of prostate cancer in California.

## EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2004, and would apply to tax returns filed on or after that date after the fund is added to the tax return.

## POSITION

Pending.

## ANALYSIS

### FEDERAL/STATE LAW

Current federal tax law provides a true checkoff to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the 11 voluntary contribution funds listed on the state tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Board Position:

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<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

9/5/03

Except for the California Seniors Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. Attachment I shows the specific sunset dates for each voluntary contribution fund and indicates that all funds, except the California Seniors Special Fund, must meet a minimum contribution test (as indexed, if required) to remain on the return. Attachment II is a chart indicating the number and dollar amount of contributions to the funds for multiple fiscal years.

Under current law, new voluntary contribution designations generally require an existing voluntary contribution to come off the return before the new one is added. This kind of voluntary contribution designation is referred to as a contingent voluntary contribution designation. In the event that more than one act adding a voluntary contribution designation is filed on the same date, the act with the lowest chapter number would be added to the tax return before another act with a higher chapter number.

### THIS BILL

This bill would establish the California Prostate Cancer Research Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This bill would require FTB to revise the personal income tax return to include a designation space for the fund beginning with the first taxable year another voluntary contribution fund is removed.

For the second taxable year the fund is on the return, this bill would require the fund to meet the \$250,000 minimum contribution test. FTB is required to estimate by September 1, beginning the second calendar year after the first taxable year the fund appears on tax returns, that contributions made under this bill will be less than \$250,000 (as indexed for inflation). The law authorizing designations for this fund would be repealed if contributions made under this bill were less than the minimum contribution amount.

This bill would allow the voluntary contribution designation to remain on the tax return for five years unless a later enacted statute deletes or extends that date.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee were specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California Prostate Cancer Research Fund. Upon appropriation by the Legislature, the moneys from the California Prostate Cancer Research Fund must be allocated to: 1) FTB and the Controller for reimbursement of costs incurred in administering this fund, and 2) to an unnamed entity to further the research of prostate cancer.

## IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

## TECHNICAL CONSIDERATIONS

The entity to which the voluntary contribution designation amounts would be allocated is unnamed. The author's office has indicated that it intends to amend the bill to name the recipient entity.

The general provisions for voluntary contribution funds specify that if an article were repealed, the contribution amount designations would continue to be transferred and disbursed in accordance with the article prior to its repeal. Thus, the section specifically stating this provision for the California Prostate Cancer Research Fund is redundant and should be deleted from the bill.

## **PROGRAM BACKGROUND**

Eleven voluntary contribution funds appeared on the 2002 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$3.9 million in 2001/2002. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 140,000, or slightly less than 1% of all taxpayers.

## **OTHER STATES' INFORMATION**

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Illinois, Massachusetts, Michigan, Minnesota, and New York* allow for taxpayer contribution designations on the personal income tax returns.

*Florida* does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

*Illinois* does have a voluntary contribution fund designation for Prostate Cancer Research. However, none of the other states provide a voluntary contribution comparable to the one proposed by this bill.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

### Revenue Estimate

Assuming that the minimum level of contributions (\$250,000) is achieved each year this fund is on the return, that the fund is placed on the 2003 return filed in 2004, and that an itemized deduction is claimed for each contribution, potential revenue losses would be very minor. The revenue loss would be on the order of \$15,000 annually beginning with the taxable year the itemized deduction is claimed on the tax return (2005/2006 FY). The loss would be attributable to itemized deductions claimed for the contributions in the taxable year following the contributions.

Revenue Impact *			
(\$)			
Fiscal Year	2003/2004	2004/2005	2005/2006
Revenue Loss	\$0	\$0	-\$15,000

\*This estimate has been rounded.

Any possible changes in employment, personal income, or gross state product that might result from this measure are not taken into account.

#### Revenue Discussion

According to departmental data, the total amount of existing voluntary contributions to all funds was nearly \$4 million for fiscal year 2001/2002 with an average of \$280,000 per individual designated fund.

Assuming contributions equal or exceed the minimum contribution threshold and all contributors itemize deductions, the annual revenue loss would be on the order of \$15,000 by applying an average marginal tax rate of 6% ( $\$250,000 \times 6\% = \$15,000$ ).

#### **POLICY CONCERN**

The placement of voluntary contributions on the tax return limits the amount of space available for tax-related items. The inclusion of non-tax related information could ultimately cause the tax form to become three pages, which is unprecedented among other states and the Internal Revenue Service. A three-page return also would cause the department to incur significant costs for printing, handling, and storage.

#### **LEGISLATIVE STAFF CONTACT**

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